IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6877 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution [of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MAHENDRABHAI NAROTTAMDAS PATEL

Versus

DIRECTOR OF AGRICULTURE

Appearance:

MR KK TRIVEDI for the Petitioners.

Mr. L.R.Pujari, ASSTT. GOVERNMENT PLEADER for Respondents No. 1-2

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 10/10/2001

ORAL JUDGEMENT

This petition has been filed for quashing and setting aside the order dated 2nd August, 2001 passed by the respondent no.1 Director of Agriculture and for a direction to the respondent to continue approval granted

to the petitioner firm for supply of agricultural implements.

2. It is not in dispute that the petitioner firm is an approved supplier and it was authorised to supply agricultural implements to various Government agencies pursuant to the orders being placed by the agencies. The respondent passed the order dated 2nd August, 2001 whereby the approval given to the petitioners for the supply of the articles has been cancelled with immediate effect. Therefore, the present petition.

3. The contention of the learned counsel for the petitioners is that the petitioners being approved suppliers have not been given an opportunity of hearing and without issuing any show cause notice, the approval has been cancelled by the respondent. The respondent no.1 has filed affidavit-in-reply from which it appears that no show cause notice has been issued nor any opportunity of hearing was given to the petitioners before passing the impugned order. At the most, the respondent could have suspended the approval with immediate effect and notice could have been issued for cancellation and an opportunity of hearing is also required to be given to the petitioners under law. But no opportunity of hearing has been given. As such, the order passed by the respondent no.1 is illegal and not sustainable in the eye of law.

4. I have considered the contentions raised by the learned counsel for the parties and also perused the relevant papers on record. It is mentioned in the affidavit-in-replhy filed by the Joint Director of Agriculture that the petitioners were supplying agricultural implemental in the earthquake package scheme. The department came to know after several complaints that the quality of the goods supplied by the petitioners was not in consonance with the specifications. The respondent no.1 has cancelled the contract without giving any notice. It appears that there was no need for giving any notice as the petitioner supplied articles which were of sub-standard quality and were not as per specifications. It is also mentioned that the plea of principles of natural justice cannot be taken into consideration. The supply made by the petitioners was of sub-standard quality and not as per the specifications for which orders were placed. Due to irregularities committed by the petitioner, the approval has been cancelled which is legal, just and proper.

5. The learned counsel for the petitioners pointed out from the asserations made in the rejoinder affidavit that the articles supplied by the petitioners were not of sub-standard quality and they were approved by the concerned authorities. Even if it is assumed for the sake of argument that the some articles supplied by the petitioners were of sub-standard quality, but it does not mean that the respondent was authorised to pass cancellation of approval without giving an opportunity of hearing to the petitioner s and that is in violation of principles of natural justice. Apparently, the order passed by the respondent no.1 is illegal and violative of principles of natural justice. Therefore, the impugned order is liable to be quashed and set aside being illegal, arbitrary and violative of principles of natural justice.

6. In view of the above, this petition deserves to be allowed and is accordingly allowed. The impugned order dated 2nd August, 2001 passed by the respondent no.1 is hereby quashed and set aside. However, the respondent no.1 is at liberty to take appropriate action in accordance with law for cancellation of approval order, after giving a show cause notice and after giving an opportunity of hearing. It is also stated by the learned counsel for the petitioners that the petitioners had already supplied various agricultural implements to various government agencies and those articles have already been received and utilised by those agencies, but the respondent no.1 has withheld the amount of those article supplied by the petitioners. If it is so, the petitioners may approach the authority concerned for the amount of those agricultural implements which were supplied for which the payment has not been made. In case, the petitioners move the authority concerned, the authority concerned is directed to decide the application of the petitioners for payment of the articles already supplied by the petitioners and utilised by different agencies, in accordance with law, within a period of one month from the date of such application, after giving an opportunity of hearing. Rule is made absolute to the aforesaid extent with no order as to costs.

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